

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 9480
)
Appeal of)

INTRODUCTION

The petitioner appeals the Department of Social Welfare's (DSW's) closure of her Food Stamp and Medicaid case due to her alleged refusal to cooperate in providing verification of information.

FINDINGS OF FACT

1. For some time prior to the action taken in this matter, the petitioner, M.O., (her male companion) and the petitioner's several children, at least one of whom is also the child of M.O., lived in the same household in a federally subsidized housing project. The petitioner and her children received Medicaid and the entire household received Food Stamp benefits. Because M.O. was employed, his income was a factor used in calculating eligibility for both programs.

2. On or about September 7, 1989, the income maintenance specialist (IMS) at DSW who handles the petitioner's case received a telephone call from a worker at the Vermont State Housing Authority concerning the petitioner's income. During the course of the conversation, the Housing Authority worker told the IMS that the petitioner requested that her rent be lowered because M.O. was no longer

living with her, but there was reason to believe that he might actually still be living there based on alleged observations made by the on-site manager. Thereafter, the IMS spoke with the on-site manager who alleged that M.O. was still living in the unit.

3. On or about September 13, 1989, the petitioner filled out a report form indicating that M.O. had moved out of her home on August 14, 1989.

4. In response to the change form, the IMS set up a meeting with the petitioner on October 4, 1989, and discussed with her the reports he had heard. The petitioner denied that M.O. was still living with her. The IMS thereupon asked the petitioner to supply verification of M.O.'s absence and filled out forms with her detailing the verification which was sought and how it could be accomplished. That form is appended as Exhibit #1. The petitioner agreed to get the verification requested¹ although she told the IMS she might have trouble getting a letter from the on-site manager because of a personality conflict. The IMS told the petitioner to contact him if she has any trouble getting the requested information. The IMS told the petitioner that she was to either provide the proof by October 16, 1989, 12 days from then, or contact the IMS with an explanation why this was not possible, or her Medicaid and Food Stamps would be closed. The petitioner

acknowledged that she understood what was being requested, what the deadlines were, how she could get an extension, and what would happen if she failed to provide the information.

5. The petitioner provided no information to the Department and did not call to ask for an extension by October 16, 1989. The petitioner presented no reason for her failure to do so.

6. On October 19, 1989, the IMS mailed the petitioner a notice closing her Food Stamps and Medicaid as of October 31, 1989, based on her failure to provide information necessary to determine her eligibility and advising her that she could reapply at any time.

7. On October 23, 1989, the petitioner called the local DSW office to request an appeal.

8. On November 3, 1989, the petitioner reapplied for Food Stamps and Medicaid as well as ANFC and on November 8, 1989, provided verification of M.O.'s residence which was apparently satisfactory to the department.²

ORDER

The department's decision is affirmed.

REASONS

The Food Stamp regulations at F.S.M. § 273.2 require generally that households cooperate in providing required verification of information needed to determine eligibility whether at the time of initial application or upon review.

Household cooperation.

To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied. The household shall also be determined ineligible if it refuses to cooperate in any subsequent review of its eligibility, including reviews generated by reported changes and applications for recertification. Once denied or terminated for refusal to cooperate, the household may reapply but shall not be determined eligible until it cooperates with the State agency.

F.S.M. § 273.2(d)(1).

In interpreting this regulation, the Board has held that before a recipient can be determined to have refused to cooperate, it must be found that 1) the requested information was essential to determining eligibility; 2) that verification of the information was necessary; and 3) that the petitioner actually refused, as opposed to merely failed, to supply the information. With regard to the third matter, the Board has held that refusal to cooperate may be implied from a failure to act when it can be shown that the petitioner 1) understood what verification was to be supplied; 2) understood when it was to be provided; 3) understood that she could contact the department if she was

having trouble getting the verification and receive help and a time extension; and, 4) understood that benefits would be cut off if no steps were taken in the time specified. See Fair Hearings No. 7677 and 8947.

In this matter, the requested information was the presence and/or absence of a person from the household and the income of that person. Both pieces of information are unquestionably necessary to calculate eligibility for Food Stamps since household size and income are the essential factors for determining eligibility and benefit levels. See generally F.S.M. § 273.1, 273.9 and 273.10. Furthermore, under Food Stamp regulations, the receipt of gross non-exempt income is a mandatory item for verification. See F.S.M. § 273.2(f)(1)(i). Household composition, on the other hand, need not be verified unless the information is determined to be "questionable":

Verification of Questionable Information

- i. The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level. The State agency shall establish guidelines to be followed in determining what shall be considered questionable information. These guidelines shall not prescribe verification based on race, religion, ethnic background, or national origin. These guidelines shall not target groups such as migrant farmworkers or American Indians for more intensive verification under this provision.

F.S.M. § 273.2(f)(2)(i).

The department's "guidelines" which are found in its

procedures manual do not set any further standards for what information is deemed questionable but merely state that when changes are reported during a certification period,

"verification is necessary only for: . . . (5) Any questionable information." Procedures Manual § P-2530(B).

While it might be useful in a close case to have a standard to decide what "questionable" means, there can be little dispute that the facts here--a report from an agency similarly concerned with household composition and a manager who was in a position to observe the movements of household members--gave the IMS a reasonable basis at least to

"question"³ the accuracy of the information provided by the petitioner. Thus, it must be concluded that both the information sought and verification of it were necessary.

Finally, as the petitioner never stated that she was refusing to cooperate, it must be determined if a refusal can be implied by her act. Based on the prior Board standards, it must be concluded that it can. See Fair Hearing No. 7677. The petitioner knew what she was being asked to get, when she had to get it, what would happen if she did not and that she could avoid the deadline and seek help by contacting her worker. With this admitted understanding, the petitioner did nothing to meet the deadline. It must be concluded, therefore, that she intended not to cooperate with the request of October 4, 1989.

The Medicaid regulations similarly use the income of

parents present in the household to determine the eligibility of children (see generally Medicaid Manual § M222) and require verification of all countable income and other information affecting eligibility if it is not "clear and consistent." Medicaid Manual §§ M126 and M131. Under the above analysis, it can be concluded that after the reports from the state housing authority, the information on the petitioner's household composition and income was not clear and consistent. The Medicaid regulation also provide that "when an applicant [or recipient per M131] refuses to give necessary proofs, his application may be denied [or terminated per M131]." Medicaid Manual § M126. See also § M121.

As set out in the Food Stamp analysis above, the department's thorough and clear request and the warnings communicated to her coupled with her failure to take any action are sufficient to similarly imply a refusal to cooperate in providing verification for Medicaid purposes. The department's decision is, therefore, upheld.

FOOTNOTES

¹As the petitioner's grants were closed as of October 31, 1989, and her new applications may have been approved for November, 1989, it is possible that the petitioner is not actually being deprived of any benefits in this matter. However, as that situation was unclear at the time of hearing, the matter is best disposed of in the usual course of decision-making.

²M.O.'s address, name of employer, phone number; two letters (one from the apartment manager) verifying M.O.'s absence; verification from Mum's Snack Bar that no one in

your household is or has been employed there; M.O.'s income; and Verification of child support received.

³To the IMS's credit, he did not draw any conclusions about the family's household composition based on the reports he had received, a mistake which has been all too frequently made in the past.

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